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C O N F I D E N T I A L SECTION 01 OF 03 NICOSIA 000716

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TAGS: [PREL](#) [PGOV](#) [PHUM](#) [EUN](#) [TU](#) [CY](#)
SUBJECT: TURKISH CYPRIOT PROPERTY COMMISSION BEGINS HEARING CLAIMS

REF: NICOSIA 440 AND PREVIOUS

Classified By: Ambassador Ronald L. Schlicher, for reasons 1.5 (b) and (d).

11. (C) SUMMARY. The Turkish Cypriot Property Commission has begun processing claims from Greek Cypriots displaced from their properties in the north since the 1974 war -- and sources close to the body say it may start "closing cases" by returning land or paying compensation in the coming months. The Commission, which was set up in March 2006 by the "TRNC" in response to a property-related ECHR ruling against Turkey, has received eight applications thus far (with several more apparently on the way) from Greek Cypriots who are eager for either restitution or compensation, but nonetheless anxious to maintain their anonymity in light of political sensitivities over property issues in the south. A "TRNC Constitutional Court" challenge, filed by the opposition nationalist UBP party, seems unlikely to derail the Commission in the short term. Serious questions remain, however, regarding the long-term viability of the Commission -- including whether it can pass muster as "effective remedy" with the ECHR, how many Greek Cypriots actually apply, and to what extent Turkey's political support for the Commission will translate into financial underwriting of what is certain to be a very expensive exercise. An ECHR-compliant Turkish Cypriot Property Commission would not solve all Greek Cypriot claims in the north, but could blunt Greek Cypriot complaints about continued Turkish human rights violations in the north -- and put into sharper relief the ROC's legally questionable confiscation of Turkish Cypriot land in the south. END SUMMARY.

WORK TRICKLING IN FOR THE COMMISSION

12. (C) According to local press reports, the Turkish Cypriot Property Commission has begun to receive applications from Greek Cypriots displaced from their properties in the north since the 1974 war. Sources close to the "TRNC government" say the Commission may start "closing cases" before the end of summer. The Commission was set up in March (reftel) in response to the ECHR's 2005 Xenedis-Arestis ruling, which required Turkey (and its "subordinate local authority," the "TRNC") to set up an "effective local remedy" to the ongoing denial of Greek Cypriot property owners' rights over their pre-1974 houses and land. On paper, the Commission has the authority to return land to Greek Cypriot owners who apply -- provided the land in question is both unoccupied and not being used by the military. If the land does not meet these criteria, the Commission has the option of providing either delayed restitution (i.e., delayed until after a Cyprus settlement) or compensation.

13. (C) Since only 3-5 percent of the property in the north appears to meet the qualifications for immediate restitution (compared to the estimated 80-90 percent of the "TRNC" that

is Greek Cypriot-owned), observers close to the Commission feel it will be mainly in the business of handing out compensation. Any other option involving greater restitution would be too disruptive to the Turkish Cypriot economy and society, they claim. Nonetheless, the estimated 1600 Greek Cypriot property cases against Turkey currently pending at the ECHR have led to dire predictions in the Turkish Cypriot papers (especially the nationalist opposition rags) that an expensive and disruptive flood of claims is on the way. One story involving the formerly Greek village of Tatlisu (Akathou), where 49 villagers received notice, as required by "TRNC" law, that the property on which they were living was the subject of a claim before the Property Commission received extensive and melodramatic coverage in the Turkish Cypriot press.

¶4. (C) The number of Greek Cypriots who have filed with the Commission, however, appears to be a very small percentage of potential claimants. Press reports suggest that just eight people have applied so far. One Turkish Cypriot legal expert who advises the "government" on property suggested that more applications are in the pipeline, but he estimated the number to be in the "dozens, not hundreds." Another Turkish Cypriot lawyer told us that she had filed two claims with the Commission on behalf of Greek Cypriot clients, and that a third client was "on the verge" of filing -- but had expressed unease about the scorn he might receive in the south if he was seen to be asking the "occupation regime" for "blood money." When she asked him to elaborate, he admitted he was also worried about the effect filing a claim might have on the case he had pending at the ECHR.

POTENTIAL APPLICANTS UNCERTAIN, UNWILLING

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¶5. (C) The hesitation expressed by our contact's undecided client encapsulates many issues which could ultimately prevent Greek Cypriots from applying to the Commission in large numbers. The tenor of public discussion in the south over the Property Commission has been decidedly negative, with some lawmakers even calling for legislation to punish any Greek Cypriot who applied. Uncertainty over the legal status of the Commission plays an equally important role in scaring off potential claimants.

¶6. (C) The ECHR has yet to rule whether the Commission does indeed constitute "effective local remedy." It is unclear whether the Commission will offer (or the "TRNC" can afford to pay) the hundreds of millions of dollars that would be required should it seek to compensate even a small number of property owners at fair market prices. At the same time, the ECHR may decide that restrictions on the Commission's ability to offer restitution are too strict. As one lawyer pointed out to us, even a pragmatic claimant (whose only interest was getting something for his land, not politics) would have second thoughts about casting his lot with the Commission when he was not sure what level of compensation he would receive -- or even whether the Commission itself would be overturned in court.

¶7. (C) In an effort to address concerns about political backlash against applicants, the Property Commission has agreed to process all claims anonymously. As one lawyer pointed out, however, the anonymity of applicants can only be guaranteed if they are willing to ask for compensation rather than restitution. "You cannot remain unknown if you return to live in your house or try to resell it," he noted, adding that "TRNC" law requires current tenants (like the Tatlisu villagers) to be informed if property they are using is the subject of a restitution claim (even though property currently in use would only be subject to delayed restitution). Greek Cypriots willing to apply to the Commission for vacant property -- but unwilling to be bought off -- will therefore have to make the difficult choice

between continued displacement from their land and the opprobrium of their compatriots.

LEGAL CHALLENGE AND RESOURCE LIMITATIONS: ANKARA BUTTS IN

¶8. (C) In addition to the possibility that the ECHR may rule against it, the new Property Commission also faces a legal challenge before the "TRNC Constitutional Court." The main opposition party, the nationalist UBP, has complained that the property law is unconstitutional since the "TRNC Constitution" allows the "government" to establish a mechanism to compensate for expropriated Greek Cypriot land -- but does not explicitly mention restitution. The lawyer representing the "government" in this case (scheduled to be argued on May 18) is confident that the UBP's challenge will be thrown out. Pointing to a stack of precedents that would appear to support the property law, she insists the opposition's case is on "narrow and shaky" legal ground.

¶9. (C) Ironically, UBP party leader Huseyin Ozgurgun privately agrees. In a conversation with us, he admitted that his party's challenge was unlikely to be upheld, but that he had felt politically obliged to file the case anyway. With his eyes firmly on June 25 municipal and parliamentary bi-elections, the young and untested UBP leader viewed filing the challenge to the property law (which many of his core supporters vehemently oppose) as a way to boost his own nationalist credentials on an issue over which the public is worried and the ruling CTP of Mehmet Ali Talat looks potentially vulnerable.

¶10. (C) Ozgurgun's decision to challenge the law has clearly ruffled feathers in Ankara -- which has traditionally supported the nationalist UBP as its stalking horse on the island. Ozgurgun recounts an hour-long phone conversation he held recently with PM Erdogan (this has also been discussed in general terms in the press), in which the Turkish leader urged Ozgurgun to drop his party's challenge, stressing how important the Commission was to getting Turkey off the hook at the ECHR. Ozgurgun reportedly pushed back, arguing that his electoral base was "forcing" him to file the challenge. While the two men politely agreed to disagree, UBP insiders report that the party's relationship with Ankara has subsequently taken a turn for the worse -- with the local Turkish Ambassador using colorful language to threaten Ozgurgun, visiting AKP delegations refusing to meet with UBP counterparts, and the Turkish Embassy's aid office cutting off funds to UBP-run municipalities as punishment for Ozgurgun's temerity.

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¶10. (C) Turkish support for the new Property Commission has been consistent and open, representing perhaps the most overt GOT effort to influence Turkish Cypriot policy since the Denktash era. Turkish Cypriot politicians who drafted the new property law reject accusations that the Property Commission is designed solely for Ankara's convenience. The possibility that the ECHR might rule in favor of the new body, they note, would not only help defuse economically disruptive property law suits -- but would also force Greek Cypriots to deal directly with a Turkish Cypriot body (rather than Ankara) if they want their land back. While they are quick to reject accusations that they are after political recognition for the "TRNC," politicians from the ruling party nonetheless relish the thought that a Turkish Cypriot institution might finally gain the international legitimacy they feel the Greek Cypriots stole from them when they "took over" the ROC in 1963. In their view, the establishment of the Property Commission is the result of a confluence of Turkish and Turkish Cypriot political interests -- such that Ankara will be more than willing to increase its aid to the "TRNC" in order to foot the bill for the Commission and the compensation it awards.

¶11. (C) This is far from certain, however. While Turkish Embassy contacts are very tight-lipped about the assistance they give to the "TRNC," they are nonetheless clear that Ankara does not have unlimited funds to support the Commission. A Turkish political officer acknowledged to us that paying off every Greek Cypriot claimant would cost hundreds of millions of dollars, and expressed his belief that the Commission would therefore have to be "reasonable" in the amount of compensation it awarded to claimants.

COMMENT

¶12. (C) With over one third of the "TRNC" budget coming from Ankara already, the Turkish Cypriots will be unable to afford the bill if they end up caught between the "rock" of limited Turkish resources and the "hard place" of multiple, fair-market-value compensation rulings by the Commission. Given the limitations the Turkish Cypriots have placed on potential restitution, however, any systematic low-balling on compensation could lead to an ECHR ruling that the Commission does not represent "effective local remedy" for Greek Cypriot property complaints. The best outcome for the Turkish Cypriots, therefore, would be to dish out restitution and compensation sufficient to satisfy the ECHR -- but not so much as to break the bank. The Turkish Cypriots are hoping that some Greek Cypriots apply, but that many (if not most) decide not to sully themselves by petitioning the Commission.

An ECHR-compliant Turkish Cypriot Property Commission would not solve all Greek Cypriot claims in the north, but could blunt Greek Cypriot complaints about continued Turkish human rights violations in the north -- and put into sharper relief the parallel issue of the ROC's legally questionable confiscation of Turkish Cypriot land in the south. END

COMMENT.

SCHLICHER